

Community Preservation Advisory Committee

February 3, 2003

10:00 am – 2:00 pm, State House Room 126

Working Group Meeting Summary

Attending:

Rep. Ted Koffman (Chair)
Rep. Peter Mills (Chair)
Rep. Janet McLaughlin
Rep. Ed Suslovic
Rep. David Tobin
David Holt
Jeff Sosnaud
Beth Della Valle
Mike Johnson

Absent Committee Members:

Sen. Lynn Bromley
Rep. Sue Hawes
Peter Judkins
Jim Brown

Department of Transportation Presentation re: Constitutional Amendment Proposal

Kathy Fuller and Bruce Van Note of the Maine Department of Transportation presented information to the Committee on highway funding and funding options for transit that MDOT has investigated in the past.

The Highway Fund has been unstable and has not kept up with inflation. The General Fund and General Fund bonding have made up the difference.

Last session, the motor fuel tax indexing law was passed. It will help MDOT by adding ½ cent tax on an annual basis, but it is not expected to help the Agency meet its bottom line, completely.

The highway fund continues to be such a challenge in part because of aging infrastructure. The state has a significant number of assets that have to be maintained. We rank pretty high among other states for the number of miles per capita – over 8,300 miles of road, over 2000 of which are substandard (based on modern day standards). These are generally rural roads; they create an economic link between natural resources and the markets. The estimated cost is around \$1.3 billion to upgrade those in the next 10-20 years.

In addition, our bridge infrastructure is slowly losing ground. We've been spending \$95 million per biennium over the last six years to ensure our bridge infrastructure remains safe. We're looking at increasing that to \$108 million / biennium to just keep up. A number of bridges were built around The Depression, 50-75 years ago, which is about the useful life of a bridge.

When the state Sensible Transportation Policy Act passed in 1991, it required MDOT to invest in all modes of transportation, but it did not provide additional funding to do that. MDOT relied a lot on the general fund, particularly general fund bonds, to meet the non-highway expenditures (rail, transit, etc.).

All of the department's maintenance and operation needs are entirely reliant on the Highway Fund. A couple of exceptions are interstate maintenance funding, which gets some federal funding, and the congestion mitigation air quality program, which allows us to use federal dollars for operational purposes for a short period of time (e.g., the Island Explorer) for start-up costs.

MDOT does get a significant amt of federal dollars, but that has proven to be inadequate, and is based on a minimum guarantee formula. The federal dollars represent a fairly sizable amount, but don't meet the need. Congress sets the ceiling on how much the Administration can distribute in a six-year period, but the Administration doesn't need to distribute the whole amount. With all the talk of war, other needs, and the federal deficit, we are facing, potentially, a negative impact on what we can expect from the federal government.

In addition, MDOT will likely be asked to repay a previous surplus deposit into the Highway Fund from the General Fund, due to the current General Fund situation.

A handout to the committee included:

- Types of funding that were included in the last biennial program (Table 1);

The current MDOT budget is still under development; we're unsure what the totals are going to be because of the volatility at the federal level.

The Department is preparing a list of extraordinary needs right now to submit to our congressional delegation over the next six years as TEA3 is being created. We don't expect we'll get \$664 million – hoping \$20 million a year for the next six years. Most of these projects rely on a match from the Highway Fund, but a number of them (non-highway/multimodal systems) will require a match from other sources – probably general fund bonding. If we're successful in receiving \$142 million in multimodal earmarks, 80% would be federal dollars over 6 years.

- Pages 4-5 are simple summaries of a 1993 and 2002 report that identified some options for funding non-highway and highway-related investments in our transportation system.

Discussion

Van Note: The question we have is if time is right for a new program. We don't have enough money to do what our current mission is. These are hard numbers out of our Planning Department; the "unbuilt" roads have not been touched since WW2.

Mills: The bill in the hopper would add "the cost of public transportation" to the constitution.

Koffman: My assumption was we were trying to set the stage for when revenues were flowing more copiously that we could see some funds, not that we would try to leverage transit over your priorities today – so that we could look at all of those needs when we have the funds to do so.

Van Note: My concern is one of timing. We're in a General Fund budget crisis situation. The Governor's Office understands that everybody needs to take a hit, he closed the '03 deficit with \$7.2 million of Highway Fund dollars – and we expect another \$8.1 in the next budget.

Koffman: How would this proposal change anything?

Van Note: Once it's allowed in the Highway Fund, the Legislature will be less willing to fund transit projects out of the General Fund during time of crisis. If the constitution allows broader use of Highway Funds, legislators won't use General Fund dollars for these projects.

Mills: Are transit systems state tax exempt?

Van Note: There is also a concern that other folks would step tot the table to get their pieces in – Rep. Faircloth's LD 108 opens up highway funding for "such costs as the legislature considers appropriate" including mass transit, trails, ...

Koffman: Is there a way to do this without putting a hole in the dike?

Van Note: This legislature and your constituents have set long-standing priorities – the roads. They see the direct connection between the gas tax and the road improvements. Highway and bridge funding is very highly supported, across the state – it's an economic development issue. That connection isn't as strong for non-highway purposes.

Koffman: I didn't realize there is a lockbox here. In a sense, public transit is a stepchild.

Van Note: We've been funding it through General Fund in the past.

David Holt: I get paid by people who would agree with you. However, I am concerned that we'll never address public transportation with that idea. Is there any opportunity so that the beneficiaries could pay a higher tax to fund what we're proposing, since in the long run it would probably result in savings to the Highway Fund because of reduced wear?

Van Note: That would be a significant administrative burden. This committee also expressed interest in rural transit options. It would be very hard to have this as a "user pays" approach.

Fuller: Passenger transportation was \$110 million out of \$613 million last year; not quite a stepchild. Of that, \$24m was for transit; the majority of it was from Federal Transit Administration (80%) – MDOT primarily provided the required state match.

Tobin: Can we look at this politically? We just passed an indexing bill last year, which some of us took a pretty heavy hit. That indexing bill comes back every year – and it only won by 1 vote last year. I can sell the indexing if it's going to roads and bridges, but not if it's going to busses. This is going to be perceived as a bill for the metropolitan part of the state, and it will be the rural caucus vs. the rest of the state. I think, politically, that answer is clear.

Mills: Is it fair to say that the rural portions of the state receive a larger portion of the benefit of the highway fund, or is that unfair?

Fuller: We looked at the total pie and looked at "urban" and "rural" towns based on the federal definition. 33% of the investment went toward urban communities; 67% was going outside of those urban areas – which does include towns like Hallowell, Manchester – which have centers and downtowns, but aren't considered urban by the feds.

Mills: Would you say that more than 1/3 of the dollars has been collected from urban users.

Van Note: We haven't looked at it that way. We look at seven divisions statewide and the percentage of substandard arterials and allocate the funding that way. The arterials, by definition, have the highest amount of traffic – arterials carry 62% of the load. Theoretically when we get done, all the substandard roads across the state are rebuilt at the same time – in the next 8-10 years (\$2 million/mile – down from approximately \$2.5 million at the beginning of the project). The collector system will be more like 30-40 years to be rebuilt (\$5 million/mile based on statewide standards). Any money not going to that job is going to make it take longer; the funds are not increasing... The federal level is looking worse – about \$30 million less than last year.

- Koffman: I don't know if we need to continue too much longer. Rep Tobin's wisdom will carry the day for me. My perception of this group is community preservation, enhancing downtowns, and encouraging folks to enjoy a higher quality of life by living closer to downtowns, with transit options being part of that formula. I think the state needs to come to terms with its investments in transportation infrastructure; we're a poor state putting a lot of funding into a lot of miles of roads.
- Fuller: We'll be happy to come back to talk about Access Management some more and our evolving Urban and Village policies.
- Sosnaud: How do we go about changing our reliance on the traditional methods of transportation? We finished a record era of prosperity that would have been the opportunity to make those decisions – and we didn't. Another school of thought says you make those changes in times of crisis. When do you do it? I lived in Bangor for 12 years, and I know that bus system can be more effective; we're not only talking about the largest metropolitan areas.
- Fuller: What you're really talking about is behavior modification. People tell us they want all the choices they can get their hands on – they're not saying one choice is preferred over another. What we're trying to do is provide the choices and hope that people choose the right thing. The ways other countries have done it is to increase the fuel tax significantly, but I don't think this country – or Maine – is ready to go there. We're trying to make the choices available with a limited number of resources.
- Koffman: Thought on schools. In 1975, spending \$9m on busses; when The Cost of Sprawl was complete, it was about \$58m; now up to \$62m – is that all state funding?
- Van Note: It's a combination of general fund and local resources.
- Mills: The percentage of state funding is dreadfully high. One of the reasons we have great busses in rural districts is that the state subsidizes that based on some past education funding decisions that incorporated income into the school funding criteria.
- Tobin: One of the drivers on that was regionalism. We had 1 school bus with 8 schools; we consolidated and needed to bus a lot more kids because they couldn't walk to school any longer.
- Koffman: When we didn't allow schools to upgrade / maintain their existing local elementary and middle schools, they got built further out – where kids would have to take a bus to get there.
- Mills: I think it would be a highly suitable amendment, but I get the sense that the committee is wavering.
- Beth: This is one of those areas where we are going to be tripping over ourselves until we figure out how to do it right. I would like to suggest that we move this off the short-term agenda to the mid-term and work with MDOT to establish additional information so that we can continue to gather information and get advice. I don't think we can lay out the detail on that agenda, but I would like to encourage that we try to formulate the questions that we have and work with MDOT to get their input back on this during the coming season so when we get to the end of the

spring, we can have some sense of what we are going to try and tackle, who is going to do what, etc.

Sosnaud: I am sympathetic to that. I would like to ask the legislators if there is something to be gained by going forward at this point?

Mills: It might get killed 13-0 in the transportation committee... You need 2/3 to get it out and even discussed on the floor.

Koffman: Transportation is in an orbit that was shaped 40 years ago; changing it will be a struggle. This caucus has not been involved in that to this point; maybe we need to continue the transportation / smart growth / community preservation dialogue.

Van Note: I would agree. The debate that you're creating is having an effect on this education component. I moved from the country into town so my kids could walk to school, we could walk to the market, etc. I think you win 1 person at a time.

Sosnaud: It's beyond our ability to advance legislation as an advisory committee. It's not beyond our ability to education, to set something in motion that would help promote this dialogue so that it starts somewhere.

Mills: I have lived in Maine for most of my life; I have never seen an era when the roads are deemed to be "good enough." Mainers will never say that the highway budget is sufficient. I think this ought to be on the long-range agenda. I don't think there will ever be a political climate when this will be popular. The only way to expand it would be 55,000 signatures and a referendum.

Suslovic: 3/25/43 legislative record. There were some good arguments as to why it wasn't a good idea to put the gas tax the constitution. When we talk to people who want to solve the traffic problem, it is usually more lanes, more lights – it is really because people want to get from A – B without being slowed down. One way to reduce that, besides building capacity, is to reduce trips, reduce amount of time on the road. The Healthy Communities groups get excited and see the need for a Transportation Policy rather than a Highway Policy. We're not going to win on every one of our bills, but I don't think that's a reason to pull back.

Tobin: It is going to take education before everything else. If you increase the gas tax enough – which you can only do when the public is ready – and allow it to go into transit, when that the gas tax gets high enough and the transit systems are funded enough, folks will change their behavior.

Suslovic: There are parts of the state that transit will be an alternative for people; is a differential gas tax an option? I can hear the legitimate complaint from rural Maine that is not going to see transit options for years and years.

Holt: Can it be local option?

Tobin: Why can't we benefit rural communities – run express buses between communities.

Fuller: A differential may cause an unintended consequence.

Koffman: I was thinking the opposite – lower the gas tax in service centers (similar to Gov Dean's lowering the sales tax in downtowns).

Holt: If you make it local option at a penny a gallon, nobody would even notice.

- Della Valle: The conversation we're having is why I'm advocating we move a little more slowly. We've created so many unintended consequences in our legislative proposals; we don't generally slow down to think about what happens in the next layer. If MDOT is on board, they know the system, they know the smart growth principles. We can think through the consequences, we may be able to avoid creating more messes than we clean up.
- Mills: Consensus is to withdraw the bill, keep it alive on the long-range agenda, but not press it in this legislature.
- Della Valle: I would like to press the committee to articulate that research agenda so that as we get through this calendar year, approaching summer, that we can have some sense of what we will be addressing in the late summer.
- Sosnaud: Long-term agenda doesn't mean we put it away for the long term, but that we continue to work on it...
- Mills: I would like further information on the exemption from the gas tax, which is an interesting form of subsidy for schools and municipalities.

CPAC Annual Report

A draft of the Annual Report is posted on the CPAC website, with comments requested by February 10, 2003 (<http://www.maine.gov/spo/cpip/cpac/meeting5.htm>). Comments or suggestions should be submitted to Liz Rettenmaier (liz.rettensmaier@maine.gov).

Members suggested that the transportation amendment be moved to the long-term, and that education of transportation alternatives be included as a component of the discussion. Also, SPO and MDOT should work together to develop a paragraph about transportation policy and community preservation for mid- and long-term goals, including service roads strategy for addressing sprawl on arterials, similar to Vermont's strategy.

Beth Della Valle recommend including the Committee's concern that the LMF tool be very closely tied to the smart growth efforts, in term of preserving farmland and unique resources, with recognition that the preservation should not pull resources out of the development stream.

David Holt suggested adding a sentence that rehabilitation of existing buildings serves the interest of the Committee, and that the Committee support programs and policies that make it easier to rehab existing buildings and facilities (including schools).

Current Bills

An Act to Establish a Municipal Affordable Housing Development District Tax Increment Financing Program (LR 787, Koffman)

- Merrill: The Tax Increment Financing for affordable housing bill language is coming together; Susan Johannesman is working with me to draft it.
- Tobin: Will this bill piggy back on the existing TIF program? I'm concerned that a TIF can actually cost a municipality, if the money isn't spent wisely. The Town of Windham has 2 TIFs in place, and they each cost the town about \$100,000/year. When you set up a TIF, you design the zone, take the increased tax revenue, and shield it from the state, and put it in a fund. It goes into a fund that has to be spent as your fiscal plan denotes. For instance, most TIFs take 80% of the area and shelter it; those dollars do not go into the town's general fund. If you're

smart, when you set it up, you include infrastructure associated with the improvements in your plan. If you exclude the TIF fund you're penalizing your general fund. It would be nice if this bill could be used by the municipality to finance school infrastructure that the development creates.

Suslovic: I have a bill in at request of the City of Portland that would open up the existing TIF language to housing. Portland and many service center communities have excess capacity. If Portland or South Portland were to TIF a housing project, they would be trying to get as many school children as possible to live there – increasing enrollment without increasing valuation. The incentives for this bill are coming from developers who say that the cost of living is too high for employees.

Tobin: The first ring of towns is also becoming prohibitively expensive. If something doesn't happen, the second ring of towns is next.

Holt: I would be interested in speaking on behalf of the TIF bill.

An Act to Provide Incentives for Affordable Neighborhood Developments (LR 789, P Mills)

Mills: I'm not sure where that is, but I think the funding is straightened out. We're looking at real estate transfer revenues; have yet to find out if we have produced any revenue from that since July 1. (Peter will follow up with Susan to ask OFPR.)

An Act to Amend the Laws Governing Municipal Citizen Initiatives and Referenda (LR 792/LD 389, Suslovic)

Suslovic: I think LR 708 and LR 792 are identical, LR 708 is being withdrawn.

An Act to Enhance the Duties of the Community Preservation Advisory Committee (LR 706 / LD 522, Suslovic)

Suslovic: LR 706 adds two charges to the CPAC (sort of similar to Barstow's bill) that addresses looking at counties, labor markets.

Tobin: I think Ed's going the right direction. This may lay some of the groundwork for it in the future.

Suslovic: This bills says that regionalism is important to this committee and that county boundaries are an impediment to that

Della Valle: This group has a legitimate place at the table, but this issue can consume a lot of energy. The State Planning Office worked for over two years on the Proposal to Reduce the Cost of Government through Reform of Governmental Relations (available on the SPO website).

Suslovic: At least half of the State and Local Committee is ready to address this issue.

Resolve, Directing the Department of Education to Use Money for School Transportation Costs for Payment of School Crossing Guards (LR 407 / LD 624, Suslovic)

Suslovic: This proposal requires DOE to include crossing guards in the same formula for reimbursement as school busses

An Act to Protect Motor Vehicles From Dangerous Pedestrians (LR 295 / LD 63, O'Neil)

Suslovic: I would oppose this bill because it sends the wrong message, but we need better enforcement at cross walks.

An Act to Create Broadband Internet Access in Rural Areas of the State (LD 90, Goodwin)

Della Valle: This is a bill that makes me ask "who is going to pay for this" – if the cost is on the backs of the communities with a more compact settlement pattern, extending another utility into a low density area, I would be concerned.

An Act to Establish Rent Caps on Property in Southern Maine (LD 42, Laverriere-Boucher)

Suslovic: The focus has changed from rent caps to removing barriers to construction of affordable housing (not rent caps). I'm planning on going tomorrow to support this

Four bills affecting the Land for Maine's Future Program: An Act To Require the State To Hold Title to All Land and Easements Purchased with the Land for Maine's Future Fund (LD 176, Carr), An Act To Limit the Use of State Funds To Purchase Land or Conservation Easements (LD 94, Joy), An Act to Require Joint Standing Committee Approval for Certain Purchases Proposed by the Land for Maine's Future Board (LD 92, Sherman), and An Act to Limit State Land Ownership (LD 348, Shorey)

Suslovic: I'm having a harder time drawing a link to this committee.

Koffman: The current LMF program statement stipulates 20% to support agriculture in fast growing areas and another percent to support open space near fast growing areas, shifts that were brought about by the smart growth movement. From everything I've heard, the real threat to prime agricultural soils is in Southern Maine. I think we should oppose this.

Tobin: We just took advantage of that program in Windham, right beside our growth area. You'll find that people in Northern and Eastern Maine have a completely different outlook.

Audubon: We feel very strongly about maintaining the integrity of LMF program; I would encourage the committee to look carefully at LD 92 and 94. 176 would require the state to hold the entire title; this would reduce the partnerships between the local land trusts and municipalities.

Suslovic: One concern I have with LMF in southern and coastal Maine is that it is another tool for NIMBYs to set aside land that is appropriate for development. How do we ensure that LMF doesn't support the NIMBY movement, factoring smart growth principles into their decision?

Tobin: The LMF Board is very careful to address that very issue.

Della Valle: Last summer, we met with Tim Glidden and Evan Richert (former Director) on this to make sure that LMF is doing its part on the livability aspect and fine-tuning how they address this NIMBY issue. There was a strong focus on this issue in the last round of applications. A number of submitted projects were rejected for that very reason. LMF is now talking about not just preserving the "relic farms" but creating a system, not just the isolated parcels.

Suslovic: My experience with the Presumpscot River parcel makes me worry that there isn't a strong smart growth voice on the LMF board to replace Evan.

Della Valle: In the report, I recommend raising the issue of direction to the Governor / Administration that we remain concerned that the LMF tool be very closely tied to the smart growth efforts, in term of preserving farmland and unique resources, but concern that it doesn't pull resources out of the development stream.

John Piotti: I wanted to confirm what Beth says – looking at critical systems for farmland is important. In terms of farmland (remember LMF doesn't purchase the farm, it purchases the development rights), the point is moot in Northern and Eastern

Maine – there are no deals in Eastern or Northern Maine where it is worth purchasing the development rights on agriculture land there.

An Act to Streamline Maine's Planning Process (LD 308, Glynn)

Della Valle: This bill calls for elimination of SPO and redistribution of its programs. I would suggest that SPO would have some serious concerns about these bills. One of the functions of SPO in statute is as a coordinating function among various state agencies, staying above the “nose to the ground” program approach; that would be lost if broken up and redistributed. What has been amazing to watch over the last 8 years is watching the silos come down, even at SPO. In a program, you focus on the day-to-day requirements of that program. There was a time, when we pulled all the programs out of SPO and SPO was just a policy shop; both the policies and the programs suffered from that approach. Bringing these two pieces back together was remarkable.

NEXT STEPS

Koffman: Is there a need for another meeting during this session?

Suslovic: One of the things we need to keep in mind is that we are not a task force that will go away after a year. We, as a committee, need to keep pushing some of these in the short term, and consider some of these in the longer term. I think there is a need to continue to meet this session to stay informed about what is bubbling up. I would like to identify 6, 8, 10 bills that we should be officially supporting or opposing.

Mills: A productive format was like this morning focusing on transportation policy. If you wanted to have focused time on various issues, we can do that – school construction (conversion of regional vocational areas into school districts), dairy farms, regional government.

Della Valle: And the LMF issue

Suslovic: Evan is creating a whole plan around regionalism; it would be nice to hear where he is coming from.

Mills: This issue will be part of the Governor's “State of the State” address; it's part of MMA's proposal, 2% for regionalization.

Johnson: When we're talking about regionalization of schools, are we talking about a single campus?

Mills: Generally, we're talking about consolidating administration; consolidating schools are local (very contentious) decision.

Tobin: There is a bill in there to make Aroostook a single school district (An Act Concerning Restructuring of School Districts, LD 230, Martin). I don't see why that wouldn't work.

Suslovic: An Act to Increase Revenue Sharing to a Municipality by 5% of its Allocation if it Shares Fire, Police and Recreation Services with Adjoining Municipalities (LD 141, Martin) is also an interesting one.

- Mills: Why don't we schedule a meeting to look at regionalism issues, inform ourselves about it – pull out bills that are focused on this, get copies available to the committee, prepare an agenda for a meeting that concerns itself with regionalization as a theme. Enlist Jim Rier to come down from Calais to address the committee on his plans. Might ask John Martin to attend for his views. Jim Brown to give us an Aroostook county perspective. Evan Richert to have his thoughts together. Beth can give her dog and pony show on counties. (30-40 minutes each). Invite the State and Local and Natural Resources Committees. **March 21, starting 10 AM.**
- Koffman: We will also want to touch on affordable housing, transportation later – maybe 30 minutes each on how each of those connect to regionalism discussion, an integrated approach.
- Suslovic: PACTS has been struggling with doing regional transportation planning when you don't have control over local land use – maybe get them in for 15-20 minutes.
- Della Valle: Both Kathy Fuller and I have been working with the PACTS committee for the last few months. The planning committee unanimously recommended that the policy committee amend its 20-year transportation/land use plan to design a system that would link transportation investments in arterial corridors to the municipalities making commitments to certain types of land use regulation. It was acknowledged that this was a very tricky issue that needed some refinement. The policy committee, made up of town managers and selectpersons, got nervous about the unanswered questions and responded that they wanted the committee to keep working on it and bumped it down in the priority list.
- Mills: MMA is another player. Doug Brooks, who is now on the House Speaker's staff, has written some of the best stuff on it. The five towns north of Portland initiative is another potential area of interest.
- Holt: I think it's a mistake to say that local governments don't favor regionalism. There are some good examples out there. Some of the successes can give people courage.
- Della Valle: I think MMA has also put together something on the successes.
- McLaughlin: Evan would be good thinking about regionalism in New England. Successes come when you tailor the players to the situation; county government is too big for some things, but too small for others.
- Mills: There is also the COG system.
- Suslovic: Without providing some mechanism for towns to link comprehensive plans together, we're never going to get out of our own way.
- Della Valle: We got legislative changes last year to put multi-town plans on equal footing; the next step is getting some incentives to actually create and implement them.
- Koffman: Some time ago, when we were talking about affordable housing outreach, workforce housing, rental and ownership... Have you thought about that, perhaps targeting some specific geographic areas? Should we be sponsoring something in a collaborative way to look at how we can change our ordinances, change our laws.

Merrill: We met with a rep of a group in Southern Maine in the last couple of weeks that wants to do exactly that. My inclination would be to work with them, help them organize to do it. Based on that success, replicate in parts of the state that organization doesn't serve.

Koffman: It may be that you or DECD might know of communities that are ripe for such a thing...

Suslovic: Along those lines, we have three excellent videos, this community could help by getting out. The MSHA 20 minute video on housing; Save our Lands, Save our Towns, the Livable Landscapes documentary specific to ME, NH, and VT. It would be great to get those in front of the rural caucus and build some bridges.

Della Valle: We have all those available if the legislators want to arrange showings, we can provide the videos.